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U.S. DISTRICT COURT
MIDDLE DISTRICT OF TN.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

CRAIG CUNNINGHAM, Pro-se

Plaintiff

v.

Kondaur Capital

800 Resources Group, Park View law

Defendants.

CIVIL ACTION NO.:

Plaintiff's Original Complaint

1. The Plaintiff in this case is Craig Cunningham, a natural person and was resident of Davidson County at all times relevant to the complaint, and currently has a mailing address of 5543 Edmondson Pike, ste 248, Nashville, TN 37211
2. Upon information and belief, Kondaur Capital Corporation is a mortgage lender with the address of 333 South Anita Drive, ste 400, Orange, CA 92868.
3. 800 resources group is one of the given names of the company that was identified when the Plaintiff called the phone number back. Their address for service is 4025 Camino Del Rio S. Ste 300 San Diego, CA 92108.
4. Park View law is one of the given names of the companies that was identified when the Plaintiff called the defendants in question. Their address for service is 4025 Camino Del Rio S. Ste 300 San Diego, CA 92108

Jurisdiction

5. Jurisdiction of this court arises as the acts happened in this county.
6. Venue in this District is proper in that the defendants transact business here, and the acts and transactions occurred here.

FACTUAL ALLEGATIONS

7. In August 2013, the Plaintiff received several text messages soliciting him to call 888-319-1307 from "Julia" as they have evaluated the Plaintiff's inquiry about a home loan.
8. The Plaintiff is not in the market for a home loan, has not applied for a home loan,, and has not inquired with anyone about a home loan. The last thing the Plaintiff could need at this point in his life is a home purchase. The Plaintiff has no interest in buying a home at the time he received the messages or to date, and has never consented to receive text messages to his cell phone.
9. These text messages are covered under the telephone consumer protection act, 47 USC 227 hereafter (TCPA) and qualify as "calls" under the statute. As such, the messages violated the TCPA as they were to the Plaintiff's Cell phone, were unsolicited, not related to an emergency purpose, and the Plaintiff did not consent to receiving text messages or automated/pre-recorded calls.
10. The Plaintiff called the number and the defendants identified themselves as the 800 resources group on one call, and on another call, identified themselves as Park view legal/Park view law, which is a credit repair company.

11. The Plaintiff also was told by the agents on the phone that the Plaintiff qualified for a loan from Kondaur capital and Parkview law was essentially prospecting for leads on behalf of Kondaur capital to screen people for mortgage loans, and should their credit not be sufficient, they would be solicited for services for Park view law and then Kondaur capital.
12. There were no questions about income, assets, or even a property address during the “qualification” process. The agents merely asked what credit score the Plaintiff had, and then deemed the Plaintiff “qualified” and said they would forward his information Kondaur capital for the purpose of obtaining a mortgage.
13. Kondaur is therefore vicariously liable for the actions of the companies prospecting for the benefit of Kondaur capital, according to Charvart v Dish and the FCC’s ruling on May 9th 2012, FCC-13-54A1, and under the Federal common law principles of agency, apparent authority, and ratification. Courts including those in the 6th circuit have ruled that a company can’t escape TCPA liability by simply hiring another company to violate the law on their behalf.

CAUSES OF ACTION:

COUNT I

Violations of the Telephone Consumer Protection Act (TCPA)

14. Plaintiff Cunningham incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.
15. The foregoing actions by the Defendants constitute multiple breaches of the

TCPA by placing unsolicited and unwelcome telephone text messages to the Plaintiff's cell phone. These phone calls also violated the TCPA by automated nature of the text messages and as such allow the Plaintiff to recover \$1500 per call/message.

COUNT II

Violations of the Telephone Consumer Protection Act (TCPA)

16. Plaintiff Cunningham incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.
17. The foregoing actions by the Defendants constitute multiple breaches of the TCPA by placing unsolicited and unwelcome telephone calls to the Plaintiff's cell phone. These phone calls also violated the TCPA by having text messages that were non-compliant with the requirements of the TCPA, which requires a company using pre-recorded messages to state the name, address, and phone number of the entity making the calls or on the behalf of which the calls are being made. These text messages did not state any of the required information and as such violated the TCPA, which entitles the Plaintiff to recover an additional \$1500 per call/message.

PRAYER FOR DAMAGES AND RELIEFS

- A. WHEREFORE, Plaintiff, Cunningham, respectfully prays and requests that

judgment be entered against the defendants for:

- B. Statutory damages of \$3000 for each text message.
- C. Pre-judgment interest from the date of the phone calls.
- D. Punitive damages for all claims in the amount of \$50,000
- E. Attorney's fees for bringing this action; and
- F. Costs of bringing this action; and
- G. For such other and further relief as the Court may deem just and proper

I, Craig Cunningham, Affiant, hereby attest to and certify that the facts contained in the foregoing complaint are true and correct to the best of my knowledge, information and belief and that a true and correct copy of the foregoing was sent to the defendants in this case.

Respectfully submitted,



Craig Cunningham

Plaintiff, Pro-se

Mailing address:

5543 Edmondson Pike, ste 248

Nashville, tn 37211

828-291-7465

July 20, 2014